

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

MAY 30 2001

Mr. John M. Daniel Jr., VADEQ
Virginia Department of Environmental Quality
P.O. Box 10009
Richmond, Virginia 23240

Dear Mr. Daniel:

By letter of April 20, 1998, the Environmental Protection Agency (EPA) delegated the primary authority for implementation and enforcement of the 40 CFR Part 63 standards for affected sources located at major sources, as defined by 40 CFR part 70, to the Virginia Department of Environmental Quality (VADEQ). EPA amended this delegation agreement on November 9, 1998 to revoke the delegation of the authority grant waivers of recordkeeping or reporting Requirements, per 40 CFR 63.10(f), to VADEQ.

On September 14, 2000 (65 FR 55810), EPA promulgated amendments to its rules governing the approval of state programs and delegation of Federal authorities. These amendments clarify which authorities can be delegated to the States in 40 CFR section 63.91(g). To be consistent with these amendments, EPA is hereby revising the aforementioned delegation agreements between EPA and VADEQ, by replacing paragraphs D. 6. and D.7. with the following language:

* * *

D. This partial delegation is based upon the following conditions:

* * *

6. Certain provisions of 40 CFR Part 63 allow only the Administrator of EPA to take further standard setting actions. In addition to the specific authorities retained by the Administrator in 40 CFR Section 63.90~~(c)~~ and the "Delegation of Authorities" section for specific standards, EPA Region III is retaining the following authorities, in accordance with 40 CFR Section 63.90~~(g)~~(2)(ii):

- a. Approval of alternative non-opacity emission standards (e.g., 40 CFR Section 63.6(g) and applicable sections of relevant standards)
- b. Approval of alternative opacity standards (e.g., 40 CFR Section 63.9(h)(9) and applicable sections of relevant standards)

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- c. Approval of major alternatives to test methods, as defined in 40 CFR Section 63.90(a) (e.g., 40 CFR Section 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards)
 - d. Approval of major alternatives to monitoring, as defined in 40 CFR Section 63.90(a) (e.g., 40 CFR Section 63.8(f) and applicable sections of relevant standards)
 - e. Approval of major alternatives to recordkeeping and reporting, as defined in 40 CFR Section 63.90(a) (e.g., 40 CFR Section 63.10(f) and applicable sections of relevant standards)
- ✓ 7. The following provisions are included in this delegation, in accordance with 40 CFR Section 63.90(g)(1)(i), and can only be exercised on a case-by-case basis. Prior to exercising these authorities, VADEQ must notify EPA Region III in writing, unless otherwise noted:
- a. Applicability determinations for sources during the Title V permitting process and as sought by an owner/operator of a major source (as defined in 40 CFR Part 70) through a formal, written request (Section 63.1 and applicable sections of relevant standards).
- Applicability determinations are considered to be nationally significant when they: i) are unusually complex or controversial, ii) have bearing on more than one state or are multi-Regional, iii) appear to create a conflict with previous policy or determinations, iv) are a legal issue which has not been previously considered, or v) raise new policy questions and shall be forwarded to EPA Region III prior to finalization. Detailed information on the applicability determination process may be found in EPA document 305-B-99-004 *How to Review and Issue Clean Air Act Applicability Determinations and Alternative Monitoring* dated February 1999. VADEQ may also refer to the Compendium of Applicability Determinations issued by the EPA and may contact EPA Region III for guidance.
- b. Operation and maintenance requirements - responsibility for determining compliance (e.g., 40 CFR Section 63.6(e) and applicable sections of relevant standards)

- c. Compliance with non-opacity standards- responsibility for determining compliance (e.g., 40 CFR Section 63.6(f) and applicable sections of relevant standards)
- d. Compliance with opacity and visible emission standards- responsibility for determining compliance (e.g., 40 CFR Section 63.6(h) and applicable sections of relevant standards)
- e. Approval of site-specific test plans (e.g., 40 CFR Sections 63.7(c)(2)(i) and (d) and applicable sections of relevant standards). VADEQ will notify EPA of these approvals on a quarterly basis by submitting a copy of the test plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval (see Section D.6 of this letter)
- f. Approval of minor alternatives to test methods, as defined in 40 CFR Section 63.90(a) (e.g., 40 CFR Section 63.7(e)(2)(i) and applicable sections of relevant standards).
- g. Approval of intermediate alternatives to test methods, as defined in 40 CFR Section 63.90(a) (e.g., 40 CFR Sections 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards).
- h. Approval of shorter sampling times/volumes when necessitated by process variables and other factors (e.g., 40 CFR Section 63.7(e)(2)(iii) and applicable sections of relevant standards)
- i. Waiver of performance testing (e.g., 40 CFR Sections 63.7 (e)(2)(iv), (h)(2), and (h)(3) and applicable sections of relevant standards)
- j. Approval of site-specific performance evaluation (monitoring) plans (e.g., 40 CFR Sections 63.8(c)(1) and (e)(1) and applicable sections of relevant standards). VADEQ will notify EPA of these approvals on a quarterly basis by submitting a copy of the performance evaluation plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval (see Section D.6 of this letter)
- k. Approval of minor alternatives to monitoring methods, as defined in 40 CFR Section 63.90(a) (e.g., 40 CFR Section 63.8(f) and applicable sections of relevant standards).

- l. Approval of intermediate alternatives to monitoring methods, as defined in 40 CFR Section 63.90(a) (e.g., 40 CFR Section 63.8(f) and applicable sections of relevant standards)
- m. Approval of adjustments to time periods for submitting reports (e.g., 40 CFR Sections 63.9 and 63.10 and applicable sections of relevant standards)
- n. Approval of minor alternatives to recordkeeping and reporting, as defined in 40 CFR Section 63.90(a) (e.g., 40 CFR Section 63.10(f) and applicable sections of relevant standards)

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Since this action is effective immediately, there is no requirement that VADEQ notify the EPA of its acceptance. Unless the EPA receives from VADEQ written notice of objections within ten (10) days of the date of receipt of this letter, VADEQ will be deemed to have accepted all of the terms as stated herein.

Enclosed is a copy of the EPA document 305-B-99-004 How to Review and Issue Clean Air Act Applicability Determinations and Alternative Monitoring, dated February 1999 for your reference. If you have any questions regarding this partial delegation of authority, please contact me or have your staff contact Dianne McNally at (215) 814-3297.

Sincerely,



Judith M. Katz, Director
Air Protection Division

cc: Mr. Robert Mann, VADEQ